In the High Court of Judicature at Madras

Dated: 25.09.2006

Coram:

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice S.TAMILVANAN

Habeas Corpus Petition No.692 of 2006

Anjalai ..Petitioner

..vs..

1. State of Tamil Nadu,
   rep.by its Secretary to Government,
   Prohibition and Excise Department,
   Fort St.George,
   Chennai-9.

2. The District Magistrate and
   District Collector,
   Vellore District,
   Vellore. ..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus as stated therein calling for the records of the second respondent herein pertaining to the order of detention made in C3 D.O.No.31/2006 dated 18.3.2006 and quash the same, direct the respondents to produce the detenue by name Venkatesan, S/o.Kulli, who has been detained in Central Prison, Vellore before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.A.Abdul Lathif

For Respondents : Mr.M.Babu Muthu Meeran,
Additional Public Prosecutor.

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ORDER

(Order of the Court was made by P.SATHASIVAM, J.,)

The petitioner, who is the wife of the detenu by name Venkatesan, who was detained as "Goonda" as contemplated under the

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Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 18.03.2006, challenges the same in this Petition.

2. Even at the outset, learned counsel appearing for the petitioner has submitted that there was undue delay in disposal of the representation of the detenu, which vitiates the ultimate detention order passed by the second respondent.

3. The particulars furnished by the learned Additional Public Prosecutor show that the representation of the detenu dated 27.03.2006 was received by the Government on 30.03.2006; remarks were called for on the same day; remarks were received on 24.04.2006 and thereafter, the file was submitted to the authorities concerned, viz., Under Secretary and Deputy Secretary on 26.04.2006 and they dealt with the same on the same day. The Minister for Prohibition and Excise passed an order on 27.04.2006. However, the rejection letter was prepared only on 10.05.2006 and ultimately the same was served to the detenu on 18.05.2006. Though the concerned authority, namely, Minister for Prohibition and Excise has passed an order, rejecting the representation of the petitioner even as early as on 27.04.2006, it is not clear why time was taken till 10.05.2006 for preparation of the rejection letter. In the absence of any explanation by the person / persons concerned, we hold that the delay is on the higher side, which vitiates the ultimate order of detention passed by the second respondent and on this ground, the detention order is liable to be quashed.

4. Accordingly, the impugned order of detention is quashed and the habeas corpus petition is allowed. The detenu is directed to be set at liberty forthwith, unless he is required in connection with any other case.

सत्यमेव जयते

Sd/
Asst.Registrar

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/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government,
   Prohibition and Excise Department,
   Fort St.George,
   Chennai-9.

2. The District Magistrate and
   District Collector,
   Vellore District,
   Vellore.

3. The Superintendent,
   Central Prison,
   Vellore.
   (in duplicate for communication
   to detenu)

4. The Joint Secretary to Govt.,
   Public (Law & Order),
   Fort St.George,
   Chennai-9.

5. The Public Prosecutor,
   High Court, Madras.

MRD (Co)
km/11.10.

H.C.P.No.692 of 2006

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